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C. EMMETT PUGH 82 N. MAIN ST. SUFFIELD, CT 06078-2102			EXAMINER BRADEN, SHAWN M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/702,423	Applicant(s) MORALES ET AL.	
	Examiner Shawn M. Braden	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-23 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 1 objected to because of the following informalities: the phrase, "a rectangular" is a description of a two-dimensional object and is being used to describe a three dimensional container, this occurs numerous times throughout out the claim. Redundant use of the word "skin"(ln13) Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1,9,14,19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Regarding claim 1, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
5. Regarding claim 9, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

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6. Claim 9 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. The phrase "said other devices" needs to be defined.

7. The term "form a single sheet" in claim 14 is a relative term, which renders the claim indefinite. The term "form" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. The term "form a single sheet" needs further definition. Examiner cannot determine whether applicant is claiming bottom to have only one layer or that the bottom 2 layers are thicker than the double layer sides or the double layers top.

8. Claim 19 recites the limitation "said gauge, said other devices" in (page 30 ln 5). There is insufficient antecedent for this limitation in the claim. Also, claim 19 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. The phrase "said other devices" needs to be defined. Also the "top wall member" needs to be defined. Examiner cannot determine which wall, inner or outer?

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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10. Claims 1,3,7,11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bromwell (USPN 5,794,818). In regards to claim 1, Bromwell clearly discloses an enclosed regularly transportable tank (fig1). Bromwell's tank will hold a range of volumes of at least one hundred and fifty gallons (col 2 ln 15) of the industrial, heavy-duty type for transporting. Bromwell shows collapsible feet and double wall construction to provide relatively safe transportation of the liquid. Bromwell shows an internal bottle 13 and an outer shell made of two halves 11,12 with a gap in-between. The inner bottle and outer shell meet the same structural recitation as an inner skin and an outer skin. These skins are separated by a gap between the inner sidewall skin and the outer sidewall skin (fig 16) and between the inner and outer skin of the top walls (fig 7). As for the bottom surfaces (fig 13) Bromwell shows the bottom members, which are in a face-to-face engagement.

11. In regards to claim 3, Bromwell discloses internal vertical ribs 29, Bromwell's ribs are a set of offset braces of rectangular, extended tubular construction are included between the opposed, interior and exterior wall members. These ribs are restricted to only top members and sidewall members and end wall members. They add strength and rigidity as well as connecting their respective, opposed ones together while also maintaining the gaps between the inner and outer walls (col 6 ln 25-40).

12. With respect to claim 7 Bromwell discloses a fill opening adapted to receive a cap 18 (col 11 ln 1). This opening extends through both top wall members, down to the interior of the tank (fig 31). Bromwell also shows a continuous, encircling wall extending up from the top wall member completely surrounding the fill opening (fig 7).

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13. With respect to claim 11, Bromwell discloses drainage ribs (col 6 ln 53) that make up drainage channels 31, which has the same structural recitation as "a drain pipeline". These channels extend to the interior area defined by encircling wall located in the gap between inner and outer top wall members. The channels extend laterally across to their respective closest side of the tote tank and are accessible from the bottom side of the tote tank. On the bottom side of Bromwell's tanks there is a drain plug 82 used for draining out any spilled liquid entrapped within the area defined by said encircling wall (col 7 ln 52).

14. With respect to claim 12, Bromwell clearly shows a discharge valve (Fig 28) and associated line located at the bottom of the tote tank enclosed within a closed off compartment within the confines of the outer wall of the tote tank (fig 32). Bromwell also discloses a lock-able but open-able door (col 11 ln 35-45) see also (fig 32).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell. Bromwell discloses the invention substantially as claimed. However, Bromwell, does not disclose the specific dimensions between the inner and outer walls of the container

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being about ½ inch. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide a space of about ½ inch. Since

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

17. Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell. Bromwell clearly shows at least one fill opening through which the tank may be filled (fig 31). However, Bromwell does not disclose the maximum height of about 4 feet. Bromwell discloses the height of the container could be adjusted to essentially any size (col 8 ln 61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Bromwell's container have a maximum height of about 4 feet. Since

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Also, if one designates a certain maximum height and a desired volume, one of ordinary skill in the art at the time of the invention can calculate the length and the width.

18. Claims 5,6,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell. Bromwell discloses the invention substantially as claimed. However, Bromwell does not disclose the specific dimensions of max height of about 4 feet 3 inches or a capacity of about 550 gallons and where in the tank is about 6 feet in length and has a width of about 4 feet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Bromwell's container have a max height of about 4 feet 3 inches and a capacity of about 550 gallons and where in the tank is about 6 feet in length and has a width of about 4 feet Since,

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A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47

19. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell, Bromwell discloses the invention substantially as claimed. Bromwell does show an encircling wall up above the top wall member (fig 31). Bromwell however, does not disclose the encircling wall extending about 3-4 inches above the top wall member. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have the encircling wall extent above the top wall member about 3-4 inches. Since,

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

20. Claims 13,15,21,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell in view of Ata (USPN 4,746034). With respect to claims 13 & 21, Bromwell discloses that the bottom walls of his container slope downwards towards his drain holes (col 3 ln 22), which is in the same direction of the pocket or compartment. However, Bromwell includes everything except for a drip pan. Ata teaches a shield 70 below the discharge line. Ata's shield is placed below the discharge line for protection. It would also function as a drip pan. Therefore it would have been obvious at the time of the invention to one of ordinary skill in the art to add a pan below the discharge valve on Bromwell's container in order to catch drips and to protect the discharge line.

In regards to claims 15 & 22, Bromwell teaches the invention substantially as claimed. However, Bromwell does not disclose tank wall members are made of stainless steel. Ata teaches a tank of stainless steel (col 1 ln 54). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to make a tote tank of stainless steel in order to add strength, rigidly and carry corrosive materials that may not be suitable for plastic tank.

21. Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell. Bromwell clearly discloses an enclosed regularly transportable tank (fig 1). Bromwell's tank will hold a range of volumes of at least one hundred and fifty gallons (col 2 ln 15) of the industrial, heavy-duty type for transporting. Bromwell shows collapsible feet and double wall construction to provide relatively safe transportation of the liquid. Bromwell shows an internal bottle 13 and an outer shell made of two halves 11, 12 with a gap in-between. The inner bottle and outer shell meet the same structural recitation as an inner skin and an outer skin. These skins are separated by a gap between the inner sidewall skin and the outer sidewall skin (fig 16) and between the inner and outer skin of the top walls (fig 7). As for the bottom surfaces (fig 13) Bromwell shows the bottom members, which are in a face-to-face engagement. Bromwell discloses the invention substantially as claimed. However, Bromwell, does not disclose the specific dimensions between the inner and outer walls of the container being about 1/2 inch. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to provide a space of about 1/2 inch. Since

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

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Also, Bromwell clearly discloses at least one fill opening through which the tank may be filled. However, Bromwell does not disclose the maximum height of about 4 feet.

Bromwell discloses the height of the container could be adjusted to essentially any size (col 8 ln 61). As for the height

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Also, if one designates a certain maximum height and a desired volume one of ordinary skill in the art at the time of the invention can calculate the length and the width.

Claims 18,19,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell. With respect to claim 18, Bromwell clearly discloses a fill opening adapted to receive a cap 18 (col 11 ln 1). This opening extends through both top wall members, down to the interior of the tank. Bromwell also shows a continuous, encircling wall extending up from the top wall member completely surrounding the fill opening (fig 7).

With respect to claim 19, Bromwell clearly shows encircling wall extends up above said top wall member (fig 31). Furthermore

A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

With respect to claim 20, Bromwell clearly shows a discharge valve 139 and associated line located at the bottom of the tote tank enclosed within a closed off compartment within the confines of the outer wall of the tote tank (fig 32). Bromwell also clearly discloses a lock-able but open-able door (col 11 ln 35-45) see also (fig 32).

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22. Claim 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Bromwell in view of Harrison (USPN 1,563,199). Bromwell discloses the invention substantially as claimed. However, Bromwell does not disclose the dual relief valve. Harrison teaches an automatic positive and negative differential pressure regulator. Examiner notes a regulator is a type of valve. Harrison's regulator being arranged to maintain a predetermined pressure in the tank to retard evaporation, but to permit escape of gases when the pressure exceeds a certain predetermined limit, and being further arranged to permit entrance of air when fluid is withdrawn from the tank or when pressure goes below a predetermined limit (col 1 ln 10-20). Examiners views Harrison's devise can be set to 1.5psi suction and about 5psi output pressure. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to add Harrison's dual relief valve to Bromwell's tank in order to improve safety and retard evaporation of liquid stored in tank.

Allowable Subject Matter

23. Claim 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Thurs 8-6:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smb


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PRIMARY EXAMINER